

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-5520-2019 (O&M)

Date of Decision:-6.2.2019

Ranbir Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Saravpreet Singh Gurna, Advocate for the petitioner.

GURVINDER SINGH GILL, J.(Oral)

1. Today, at the very outset, the learned counsel submits that he withdraws his petition qua his prayer for setting aside of order dated 1.3.2016 (Annexure P-6) whereby he has been ordered to be summoned under Section 319 Cr.P.C. to face trial alongwith other co-accused in respect of FIR No.87 dated 6.8.2008 registered at Police Station City, Hoshiarpur under Sections 120-B, 420, 467, 468 and 471 of Indian Penal Code, 1860 with liberty to avail of all other remedies as may be available to him including filing of a revision petition against the impugned order before the Court of Sessions.
2. In view of the aforesaid submission, the petition is dismissed as withdrawn qua the prayer for setting aside of order dated 1.3.2016 (Annexure P-6) with liberty aforesaid.
3. The learned counsel for the petitioner, while pressing upon his other prayer for setting aside of order dated 14.6.2016 (Annexure P-8), whereby he has

been declared a proclaimed offender, has submitted that the mandatory notice of 30 days as prescribed under provisions of Section 82 of Cr.P.C. had not been afforded and, as such, the impugned order cannot sustain.

4. Notice of motion to State of Punjab.
5. On asking of the Court, Ms. Ruchika Sabherwal, Assistant Advocate General, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.
6. I have heard the learned counsel for the petitioner and also the learned counsel representing the State.
7. In the present case, the publication of the proclamation notice (Annexure P-7) was effected on 10.5.2016 as has been recorded in order dated 14.6.2016 (Annexure P-8). As per the proclamation notice (Annexure P-7), the accused was required to appear before the trial Court on or before 30.5.2016. In other words, after the publication had been effected on 10.5.2016, the accused was afforded a period of 20 days only i.e. upto 30.5.2016.
8. This Court in Ashok Kumar Vs. State of Haryana 2013(4) R.C.R. (Criminal) 550 while interpreting the provisions of Section 82(1) has held that a clear period of 30 days is required to be furnished to the accused and that even in case the Court subsequently adjourned the matter such adjournment beyond 30 days cannot be treated as compliance of provisions of Section 82(1) Cr.P.C. The relevant extract from the cited judgment reads as follows:

“4. In view of the above provisions of Section 82(1) Cr.P.C., it is clear that the publication was effected on 9.2.2013 and the accused was directed to appear in the Court as per that publication on 6.3.2013 which period was less than 30 days. Therefore, it cannot be held that

by passing the impugned order on 13.3.2013, the publication has been effected as per the provisions of Section 82 Cr.P.C. There was no order in the publication for the accused giving specified time and place to appear on 13.3.2013. Therefore, this order is not as per law and the same is set aside.”

9. In view of the aforestated position, I find that the mandatory provisions for providing a clear notice of 30 days as mandated under Section 82 Cr.P.C. have not been complied with. Consequently, the impugned order dated 14.6.2016 (Annexure P-8) declaring the petitioner Ranbir Singh as a proclaimed person cannot sustain and is hereby set aside.
10. The petitioner Ranbir Singh is directed to appear before the trial Court within a period of three weeks from today and to move an application for grant of regular bail. In case any such application is filed in the forenoon of the day, the trial Court shall endeavour to dispose of the same expeditiously preferably on the day of filing itself, while taking into account the fact that the petitioner had been on bail even at earlier stage also. Upon the petitioner appearing before the trial Court, the appropriate proceedings of trial shall be initiated.
11. The petition stands accepted to the limited extent as indicated above.

6.2.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No